

Mr. C. R. Iyyunni (*Trichur-South*): Before money is disbursed to the holder of the property there must be a notification in the Gazette so that the other people may take objection or raise complaints, if any.

Mr. M. Sivarama Menon (*Advocate-General*): What I am saying is that the Government should not have the duty of going out to find out the several mortgagees of the property.

Mrs. Thankamma N. Menon (*Ernakulam-Women*): Notification in the Gazette alone will not be enough. Most of the people will not be reading the Gazette.

Mr. M. Sivarama Menon (*Advocate-General*): Suppose one mortgagee is in Burma or far off Siam, do you mean to say that the Government should send notice to him? It may cause great delay.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Agricultural Improvement Loans Act (Amendment) Bill.

Mr. A. Madhava Prabhu (*Diwan Peishkar*): I beg to move that the President may be pleased to suspend the operation of S. O. 32.

Mr. President: The Standing Order is suspended.

Mr. A. Madhava Prabhu (*Diwan Peishkar*): I beg to move that the Bill may be taken up for consideration immediately.

Mr. M. Sivarama Menon (*Advocate-General*): I second it.

Clauses 2 and 3 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Mr. A. Madhava Prabhu (*Diwan Peishkar*): I beg to move that the Bill may be taken up and finally passed tomorrow.

Mr. M. Sivarama Menon (*Advocate-General*): I beg to second it.

Motion put and carried

The Cochin Tobacco Act Amendment Bill

Mr. M. Raman Menon (*Commissioner of Excise*): Sir, I beg to introduce the Cochin Tobacco Act Amendment Bill*. The necessity for the amendment is this. In the Act as it now stands there is no provision to admit to bail persons arrested under section 12 of the Act. Nor does the Act as it now stands contain any provision to empower the department to release an accused person even

*Appendix IV.

though it is found that he is innocent of the offence. Then there is also no provision in the Act to allow compounding of the offences under the Act. In the actual working of the Act the absence of these provisions is found presenting serious difficulties. It is to cure these defects that the present amendment is sought for.

Mr. M. Sivarama Menon (*Advocate-General*): I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Tobacco Act (Amendment) Bill.

Mr. M. Raman Menon (*Commissioner of Excise*): I beg to move that the President may be pleased to suspend the operation of S. O. 32.

Mr. President: The Standing Order is suspended.

Mr. M. Raman Menon (*Commissioner of Excise*): I move that the Bill be taken up for consideration.

Mr. M. Sivarama Menon (*Advocate-General*): I second it.

Clauses 2 to 9 put and carried

Clause 1 put and carried

Title and preamble put and carried

Mr. M. Raman Menon (*Commissioner of Excise*): I move that the Bill may be taken up tomorrow and finally passed.

Mr. M. Sivarama Menon (*Advocate-General*): I second it.

Motion put and carried

RESOLUTIONS—(*cont.*)

Short Notice Resolution

To keep the Town Councils Act in abeyance until the conclusion of the war

Mr. President: Under the proviso to rule 42 Mr. C. V. Iyyu is given permission to move a short notice resolution.

Mr. C. V. Iyyu (*Kunnamkulam*): Sir I beg to move the following resolution.—

"This Council recommends to the Government that the Cochin Town Councils Act be held in abeyance until the conclusion of the war."

My aim in moving this resolution is only to have all the Town Councils now existing abolished and the local areas where these Town Councils are constituted be relegated to the position which

(2) sub-sections (2) and (3) shall be re-numbered as sub-sections (3) and (4) and the following inserted as sub-section (2):

“(2) All sales of land under clauses (c) and (e) of sub-section (1) shall be free of all encumbrances.”

APPENDIX IV

THE COCHIN TOBACCO ACT (AMENDMENT) BILL

WHEREAS it is expedient further to amend the Cochin Tobacco Act, VII of 1084; It is hereby enacted as follows.— Preamble.

1. This Act may be called the Cochin Tobacco (Amendment) Act III of 1117 and it shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint. Short title and commencement.

2. In section 3 of the Cochin Tobacco Act, VII of 1084, hereinafter referred to as the Act, clauses (a) to (e) shall be re-lettered as clauses (c) to (g) and the following shall be inserted as clauses (a) and (b).— Amendment of section 3.

“(a) ‘Commissioner’ means the Commissioner of Excise, Cochin State.

(b) ‘Cultivation’ includes the tending or protecting of a plant during growth, and does not necessarily imply raising from seed.”

3. In section 5 of the Act, the words “after previous publication” shall be deleted. Amendment of section 5.

4. In sub-section (1) of section 8 of the Act, for the words “the tobacco,” the word “anything” shall be substituted. Amendment of section 8.

5. In section 11 of the Act— Amendment of section 11.

(1) for the words “Salt, Police, Land Revenue, Abkari or Customs Departments,” wherever they occur, the words “Excise, Police, Land Revenue or Customs Department” shall be substituted.

(2) for the words “Inspector of Excise Revenue,” the words “Sub-Inspector of Excise” shall be substituted.

Amendment
of section 12.

6. In section 12 of the Act—

(1) for the words “Abkari, Salt, Police, Land Revenue or Customs Departments”, the words “Excise, Police, Land Revenue or Customs Department” shall be substituted;

(2) the following proviso shall be added.—

“Provided that, if the officer or person making the arrest under this section be not empowered under section 16-B to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered and it shall be the duty of such officer empowered as aforesaid to admit such person to bail, if sufficient bail be tendered for his appearance before the Magistrate having jurisdiction to try the case.”

Substitution
of section 16.

7. For section 16 of the Act, the following shall be substituted.—

Disposal of
persons ar-
rested and
things seized.

“16. (1) Every person arrested and all things seized under section 11 or 12 shall, unless bail shall have been accepted, be forthwith produced before the Magistrate having jurisdiction to try the case, and every person arrested and all things seized under section 10 shall without delay be produced before the Magistrate who issued the warrant. Every such officer before whom any person or thing is produced under this section shall, with all convenient speed, take such measures as may be necessary for the disposal, according to law, of such person or thing.

(2) When a report of occurrence of an offence under this Act is received by an officer empowered under section 16-A to investigate the case, such officer shall, after such investigation as he may think necessary, lay a charge before the Magistrate having jurisdiction to try the case. But, if in the circumstances of the case the investigating officer thinks it undesirable to institute proceedings before a Magistrate, he shall forward the records of investigation to the Commissioner with a brief report, for the disposal of the case.

- (3) On receipt of the records of investigation with the report of the investigating officer, as aforesaid, the Commissioner may, at his discretion, order the release of the accused and the return of the articles seized, or if he thinks that the case is fit to be charged before a Magistrate, may order accordingly. The Commissioner may also return the records of investigation to the investigating officer for collecting further evidence as may be found necessary and after consideration of the whole evidence he may dispose of the case himself or direct that a charge be laid before the Magistrate.
- (4) The Commissioner may also, at his discretion, stay proceedings in any case pending investigation, and may either conduct the investigation himself or order that the case be investigated by another competent officer.
- 16-A (1) Officers of the Excise Department not below the rank of Sub-Inspectors shall have power to investigate all offences under this Act. Powers of investigation.
- (2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Cochin Code of Criminal Procedure, upon an officer in charge of a Police Station, for the investigation of cognisable offences.
- 16-B. (1) All offences under this Act shall be bailable. Offences to be bailable.
- (2) All officers of the Excise Department of and above the rank of Sub-Inspectors and all Police Officers of and above the rank of Officers in charge of Police Stations shall have power to grant bail in accordance with the Cochin Code of Criminal Procedure to any person arrested without warrant for an offence under this Act.
8. The following shall be inserted as section 17-A.— Insertion of section 17-A.

**Composition
of offences.**

"17-A. The Commissioner or any Officer empowered in this behalf by the Diwan may accept from any person who has committed, or has been suspected of having committed, an offence under this Act, a sum of money not exceeding two hundred rupees by way of composition of each such offence, and in all cases in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer or confiscate such property to Government.

On payment of such sum of money or such value, or both as the case may be, to such officer or to any officer authorised by him to receive such money or value, the accused person, if in custody, shall be discharged, the property seized shall be released and no further proceedings shall be taken against such person or property."

**Amendment
of section 18.**

9. In section 18 of the Act, for the words "the Sirkar" wherever they occur, the word "Government" shall be substituted; and between the words "Excise" and "department" in places where they occur, insert the words "Police, Land Revenue or Customs".